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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of) Confirmation No.: 6064
SCHADE et al.)
Serial No. 08/325,219) Art Unit: 1713
Filing or 371(c) Date: October 21, 1994)
)
For: THE USE OF COPOLYMERS OF CARBOXYLIC ACIDS AND LONG CHAIN
COMPOUNDS WITH ISOLATED C-C MULTIPLE BONDS AS THICKENERS OR
DISPERSANTS

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on April 22, 2005.

Typed or printed name of person signing this certificate: Sabine Berg
Signature: S. Berg

Honorable Commissioner for Patents
Alexandria, Virginia 22313-1450

STATUS INQUIRY

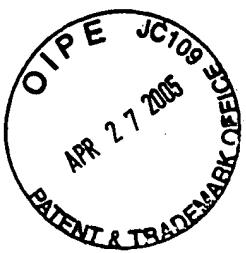
Applicants request a status report on the above-identified application. Applicants filed a Petition to Withdraw the Holding of Abandonment on June 18, 2002 (copy enclosed with postcard receipt). Applicants continue to await a response thereto.

Please charge any shortage in fees due in connection with the filing of this paper to Deposit Account No. 14.1437. Please credit any excess fees to such account.

Respectfully submitted,
NOVAK DRUCE DeLUCA & QUIGG LLP

Jason D. Voight
Reg. No. 42,205

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Washington, D.C. 20005
(202) 659-0100



June 12, 2002

SCHADE et al.
S.N. 325,219

Received: petition to withdraw abandonment
copy of continuation transmittal
copy of preliminary submission



BEST AVAILABLE COPY



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION

OF: SCHADE ET AL.

CONFIRMATION No.: 6064

SERIAL No. 08/325,219

GROUP ART UNIT: 1713

FILED: OCTOBER 21, 1994

EXAMINER:

FOR: THE USE OF COPOLYMERS OF CARBOXYLIC ACIDS AND LONG CHAIN COMPOUNDS WITH ISOLATED C-C MULTIPLE BONDS AS THICKENERS OR DISPERSANTS

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner of Patents and Trademarks, Washington, D.C. 20231, on:

June 12, 2002

Date of Deposit

Herbert B. Keil

Person Making Deposit

Signature

June 12, 2002

Date of Signature

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

PETITION UNDER 37 C.F.R. §1.181
TO WITHDRAW THE HOLDING OF ABANDONMENT

Sir:

Applicants hereby petition to the Honorable Commissioner to withdraw the holding of abandonment indicated in the Notification dated May 31, 2002 (*marked as Paper No. 23*).

STATEMENT OF MATERIAL FACTS:

1. On March 20, 2002 (*indicated date of Mailing*), the Board of Patent Appeals and Interferences issued a decision sustaining the appealed rejection.
2. On May 20, 2002, applicants filed a continuation application under 37 C.F.R. §1.53(d) (*copy of Form PTO/SB/29 enclosed*), along with a preliminary submission including a preliminary amendment of the claims (*marked as Paper No. 23; copy enclosed*).
3. In a Notification dated May 31, 2002, the Examiner indicated that the application is abandoned because the period for seeking court review of the Board's decision had expired and because there were no allowed claims.

M E M O R A N D U M

37 C.F.R. §1.53(d) provides that a continuation application may be filed before termination of proceedings on a prior application, "before" meaning in this context "*not later than*" (ie. MPEP §711.02(c)).

In light of the Boards decision of March 20, 2002, the proceedings in the prior application were terminated on the date on which the time for an appeal to the court or review by civil action expired, ie. May 20, 2002, (ie. 37 C.F.R. §1.197(c) and §1.304). Accordingly, applicants' continuation application was timely submitted. A holding that application Serial No. 08/325,219 was abandoned is, therefore, not deemed appropriate.

C O N C L U S I O N

Applicants therefore respectfully request that the holding of abandonment dated May 31, 2002, be withdrawn and that the application be returned to the Examiner for entry and full consideration of applicants' continuation application. Favorable action is respectfully solicited.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees to Deposit Account No. 11.0345. Please credit any excess fees to such deposit account.

Respectfully submitted,

KEIL & WEINKAUF



Herbert B. Keil

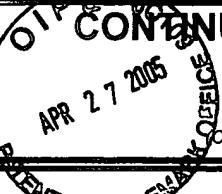
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1350 Connecticut Ave, N.W.
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(202) 659-0100

Encl.: copy of Form PTO/SB/29
copy of CPA Preliminary Submission/Amendment

HBK/BAS

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CONTINUED PROSECUTION APPLICATION (CPA) REQUEST TRANSMITTAL

Submit an original, and a duplicate for fee processing.

Only for Continuation or Divisional applications under 37 CFR 1.53(d)

CHECK BOX, if applicable:
 DUPLICATE

Address to:

Assistant Commissioner for Patents
Box CPA
Washington, DC 20231

Attorney Docket No.
of Prior Application

0050/43168

First Named Inventor

SCHADE et al.

Examiner Name

Wu

Group Art Unit

1713

Express Mail Label No.

This is a request for a continuation or divisional application under 37 CFR 1.53(d),
(continued prosecution application (CPA)) of prior application number 08 / 325,219,
filed on 10/21/94, entitled USE OF COPOLYMERS OF CARBOXYLIC ACIDS AND LONG CHAIN...

NOTES

FILING QUALIFICATIONS: The prior application identified above must be a nonprovisional application that is either: (1) complete as defined by 37 CFR 1.51(b), or (2) the national stage of an international application in compliance with 35 U.S.C. 371. Effective May 29, 2000, a CPA may only be filed in a utility or a plant application if the prior nonprovisional application was filed before May 29, 2000. A CPA may be filed in a design application regardless of the filing date of the prior application. See "Request for Continued Examination Practice changes to and Provisional Application Practice," Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office (Apr. 11, 2000).

C-I-P NOT PERMITTED: A continuation-in-part application cannot be filed as a CPA under 37 CFR 1.53(d), but must be filed under 37 CFR 1.53(b).

EXPRESS ABANDONMENT OF PRIOR APPLICATION: The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 CFR 1.53(b) must be used to file a continuation, divisional, or continuation-in-part of an application that is not to be abandoned.

ACCESS TO PRIOR APPLICATION: The filing of this CPA will be construed to include a waiver of confidentiality by the applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, copies of, or information concerning, the prior application may be given similar access to, copies of, or similar information concerning, the other application or applications in the file jacket.

35 U.S.C. 120 STATEMENT: In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request, 37 CFR 1.78(a).

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

1. Enter the unentered amendment previously filed on _____ under 37 CFR 1.116 in the prior nonprovisional application.
2. A preliminary amendment is enclosed.
3. This application is filed by fewer than all the inventors named in the prior application, 37 CFR 1.53(d)(4).
 - a. **DELETE** the following inventor(s) named in the prior nonprovisional application:
.....
.....
.....
.....
.....
 - b. The inventor(s) to be deleted are set forth on a separate sheet attached hereto.
4. A new power of attorney or authorization of agent (PTO/SB/81) is enclosed.
5. Information Disclosure Statement (IDS) is enclosed:
 - a. PTO-1449
 - b. Copies of IDS Citations

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box CPA, Washington, DC 20231.

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CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
	TOTAL CLAIMS (37 CFR 1.16(c) or (j))	7 -20* =		x \$ _____ =	\$
	INDEPENDENT CLAIMS (37 CFR 1.16(b) or (i))	2 -3** =		x \$ _____ =	
	MULTIPLE DEPENDENT CLAIMS (if applicable) (37 CFR 1.16(d))			+ \$ _____ =	
				BASIC FEE (37 CFR 1.16)	740.00
			Total of above Calculations =		
	Reduction by 50% for filing by small entity (Note 37 CFR 1.27).				
	* Reissue claims in excess of 20 and over original patent. ** Reissue independent claims over original patent.			TOTAL =	740.00

6. Small entity status: Applicant claims small entity status. See 37 CFR 1.27.

7. The Commissioner is hereby authorized to credit overpayments or charge the following fees to Deposit Account No. 11 - 0345 ANY DEFICIENCY IN FEES

- Fees required under 37 CFR 1.16.
- Fees required under 37 CFR 1.17.
- Fees required under 37 CFR 1.18.

8. A check in the amount of \$ 740.00 is enclosed.

9. Payment by credit card. Form PTO-2038 is attached.

10. Applicant requests suspension of action under 37 CFR 1.103(b) for a period of _____ months (not to exceed 3 months) and the fee under 37 CFR 1.17(i) is enclosed.

11. New Attorney Docket Number, if desired _____
[Prior application Attorney Docket Number will carryover to this CPA unless a new Attorney Docket Number has been provided herein.]

12. a. Receipt For Facsimile Transmitted CPA (PTO/SB/29A)
b. Return Receipt Postcard (Should be specifically itemized. See MPEP 503)

13. Other: _____

NOTE: The prior application's correspondence address will carry over to this CPA
UNLESS a new correspondence address is provided below.

14. NEW CORRESPONDENCE ADDRESS

Customer Number or Bar Code Label



or New correspondence address below

(Insert Customer No. or Attach bar code label here)

Name

KEIL & WEINKAUF

**1350 Connecticut Avenue, N.W.
Washington, D.C. 20036**

City

State

Zip Code

Country

USA

Telephone

(202) 659-0100

Fax (202) 659-0105

15. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print /Type)

Herbert B. Keil

Signature

18,967 *HB Keil*

Registration No. (Attorney/Agent)

Date

May 20, 2002



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE C. P. APPLICATION

OF: SCHADE ET AL.

SERIAL No. 08/325,219

FILED: OCTOBER 21, 1994

FOR: THE USE OF COPOLYMERS OF CARBOXYLIC ACIDS AND LONG CHAIN COMPOUNDS WITH ISOLATED C-C MULTIPLE BONDS AS THICKENERS OR DISPERSANTS

BOX: CPA

CONFIRMATION No.: -/-

GROUP ART UNIT: 1713

EXAMINER: DAVID W. WU

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

CONTINUED PROSECUTION APPLICATION

PRELIMINARY SUBMISSION

Sir:

This is a Continued Prosecution application pursuant to 37 C.F.R. §1.53(d), of application Serial No. 08/325,219, filed on October 21, 1994, which is filed in reply to the Decision of the Board of Patent Appeals and Interferences dated March 20, 2002. For further prosecution, kindly enter and consider the following preliminary amendment and remarks:

PRELIMINARY AMENDMENT

IN THE SPECIFICATION:

Amend the specification as set forth in Appendix I attached to this paper. A marked up version indicating the changes made in the respective paragraphs of the specification is found in Appendix II.

IN THE CLAIMS:

Amend the claims as indicated in Appendix III attached to this paper. A clean copy of the claims as herewith amended is found in the attached Appendix IV.

PRELIMINARY REMARKS

Claims 10 to 15 and 17 as set forth in Appendix IV of this paper are now pending in this case. Claims 10, 13, 15 and 17 have been amended as indicated in Appendix III of this paper. The specification has been amended to set forth the continuing data of the application (ie. Appendix I and Appendix II of this paper). No new matter has been added.

Applicants have amended Claims 10, 13, 15 and 17 to further specify the nature of the long-chain compounds which constitute component (B) of the copolymer utilized in applicants' composition as a thickener or dispersant. Accordingly, the constituent (B) of the copolymer is now specified as one or more compounds selected from the groups of
(1) mono- or polyunsaturated C₈-C₃₀-monocarboxylic acids which may have additional hydroxyl groups, as well as their alkali metal and alkaline earth metal salts, alkyl esters, amides, sorbitan esters, glycerol esters or polyglycerol esters,
(2) mono- or polyunsaturated aliphatic C₈-C₃₀-amines, and
(3) mono- or polyunsaturated C₈-C₃₀-alcohols as well as their esters with saturated C₁-C₄-monocarboxylic acids,

(ie. Claim 10). In light of the respective amendment, the copolymers of applicants' invention no longer fall within the generic realm of the copolymers taught by **George** (EP 047 009) which require a combination of
- from 65 to 90% by weight of acrylic acid monomers, and
- from 10 to 35% by weight of an α-olefin having 6 to 18 carbon atoms, styrene or a substituted styrene,

(ie. page 2, indicated lines 19 to 26, of EP 047 009). The disclosure of **George** provides nothing which would suggest or imply the modifications of the copolymers which are necessary to arrive at the copolymer of applicants' invention. The referenced prior art teaching therefore fails to render the subject matter of applicants' claims *prima facie* obvious. Favorable action is respectfully solicited.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees to Deposit

Serial No. 08/325,219

SCHADE et al.

OZ 0050/43168

Account No. 11.0345. Please credit any excess fees to such deposit account.

Respectfully submitted,
KEIL & WEINKAUF



Herbert B. Keil
Reg. No. 18,967

1350 Connecticut Ave., N.W.
Washington, D.C. 20036
(202) 659-0100

Encl.: THE SUBSTITUTE SECTION(S) OF THE SPECIFICATION (Appendix I)
THE CHANGE(S) IN THE SPECIFICATION (Appendix II)
THE CHANGES IN THE CLAIMS (Appendix III)
THE AMENDED CLAIMS (Appendix IV)

HBK/BAS

A P P E N D I X I:

THE SUBSTITUTE SECTION(S) OF THE SPECIFICATION:

On page 1:

- After the title and prior to the first paragraph, ie. at indicated line 5, insert the following:

CROSS-REFERENCE TO RELATED APPLICATIONS

This is a Continued Prosecution Application of U.S. Application Serial No. 08/325,219, which was filed on October 21, 1994.

A P P E N D I X II:

THE CHANGE(S) IN THE SPECIFICATION:

On page 1:

- After the title and prior to the first paragraph, ie. at indicated line 5, the following new paragraph has been added:

CROSS-REFERENCE TO RELATED APPLICATIONS

This is a Continued Prosecution Application of U.S. Application Serial No. 08/325,219, which was filed on October 21, 1994.

A P P E N D I X III:

THE CHANGES IN THE CLAIMS:

Amend Claim 10 as indicated in the following:

10. (trice amended) A cosmetic or pharmaceutical composition, containing as a thickener or dispersant an effective amount of a copolymer obtained by free radical polymerization of

- A) 50 - 99.9% by weight of an olefinically unsaturated C₃-C₅-monocarboxylic acid, of an olefinically unsaturated C₄-C₈-dicarboxylic acid or of its anhydride or a mixture of such carboxylic acids or anhydrides with
- B) 0.1 - 50% by weight of one or more long-chain compounds with isolated C-C multiple bonds selected from the group consisting of
 - (1) mono- or polyunsaturated C₈-C₃₀-monocarboxylic acids which may have additional hydroxyl groups, as well as their alkali metal and alkaline earth metal salts, alkyl esters, amides, sorbitan esters, glycerol esters or polyglycerol esters,
 - (2) mono- or polyunsaturated aliphatic C₈-C₃₀-amines, and
 - (3) mono- or polyunsaturated C₈-C₃₀-alcohols as well as their esters with saturated C₁-C₄-monocarboxylic acids,
- C) [(4) C₁₀-C₂₅-alkyl vinyl ethers, and]
- D) [(5) terminal or internal C₁₆-C₃₀-alkenes,]
- C) 0 - 49.9% by weight of other copolymerizable monomers and
- D) 0 - 10% by weight of one or more compounds with at least two olefinically unsaturated groups in the molecule as crosslinkers.

Amend Claim 13 as indicated in the following:

13. (twice amended) A composition as defined in claim 10, wherein the copolymers have been prepared using as component B one or more long-chain compounds with isolated double bonds selected from the group consisting of

- (1) mono- to tetraunsaturated C₁₄-C₂₄-monocarboxylic acids, as well as their alkali metal and alkaline earth metal salts, C₁-C₄-alkyl esters, glycerol esters or polyglycerol esters,

- (2) mono- to tetraunsaturated aliphatic primary C₁₄-C₂₄-amines, and
- (3) mono- to tetraunsaturated primary C₁₄-C₂₄-alcohols as well as their esters with saturated C₁-C₄-monocarboxylic acids, [r]
- [+4) C₁₀-C₂₅ alkyl vinyl ethers, and]
- [+5) terminal C₁₆-C₂₄ alkenes.]

Amend Claim 15 as indicated in the following:

15. (trice amended) A copolymer obtained by free-radical polymerization of

- A) 50 - 99.9% by weight of an olefinically unsaturated C₃-C₅-monocarboxylic acid, of an olefinically unsaturated C₄-C₈-dicarboxylic acid or of its anhydride or a mixture of such carboxylic acids or anhydrides with
- B) 0.1 - 50% by weight of one or more long-chain compounds with isolated C-C multiple bonds selected from the group consisting of
 - (1) mono- to tetraunsaturated C₁₄-C₃₀-monocarboxylic acids as well as their alkali metal and alkaline earth metal salts, C₁-C₄-alkyl esters, glycerol esters or polyglycerol esters,
 - (2) mono- or polyunsaturated aliphatic C₈-C₃₀-amines, and
 - (3) mono- or polyunsaturated C₈-C₃₀-alcohols as well as their esters with saturated C₁-C₄-monocarboxylic acids,
 - [+4) C₁₀-C₂₅ alkyl vinyl ethers,]
- C) 0 - 49.9% by weight of other copolymerizable monomers and
- D) 0 - 10% by weight of one or more compounds with at least two olefinically unsaturated groups in the molecule as crosslinkers.

Amend Claim 17 as indicated in the following:

17. (amended) A cosmetic or pharmaceutical composition as defined in claim 10 and containing as a thickener or dispersant an effective amount of a copolymer obtained by free radical polymerization of

- A) 50 - 99.9% by weight of an olefinically unsaturated C₃-C₅-monocarboxylic acid;
- B) 0.1 - 50% by weight of one or more long-chain compounds with isolated C-C multiple bonds from the group comprising

- (1) mono- or polyunsaturated C₈-C₃₀-monocarboxylic acids,
- (2) mono- or polyunsaturated aliphatic C₈-C₃₀-amines, and
- (3) mono- or polyunsaturated C₈-C₃₀-alcohols,
- [(4) C₁₀-C₂₅ alkyl vinyl ethers, and]
- [(5) terminal or internal C₁₆-C₃₀ alkenes,]
- C) 0 - 49.9% by weight of other copolymerizable monomers, and
- D) 0 - 10% by weight of one or more compounds with at least two olefinically unsaturated groups in the molecule as crosslinkers.

APPENDIX IV:

THE AMENDED CLAIMS:

10. (trice amended) A cosmetic or pharmaceutical composition, containing as a thickener or dispersant an effective amount of a copolymer obtained by free radical polymerization of
 - A) 50 - 99.9% by weight of an olefinically unsaturated C₃-C₅-monocarboxylic acid, of an olefinically unsaturated C₄-C₈-dicarboxylic acid or of its anhydride or a mixture of such carboxylic acids or anhydrides with
 - B) 0.1 - 50% by weight of one or more long-chain compounds with isolated C-C multiple bonds selected from the group consisting of
 - (1) mono- or polyunsaturated C₈-C₃₀-monocarboxylic acids which may have additional hydroxyl groups, as well as their alkali metal and alkaline earth metal salts, alkyl esters, amides, sorbitan esters, glycerol esters or poly-glycerol esters,
 - (2) mono- or polyunsaturated aliphatic C₈-C₃₀-amines, and
 - (3) mono- or polyunsaturated C₈-C₃₀-alcohols as well as their esters with saturated C₁-C₄-monocarboxylic acids,
 - C) 0 - 49.9% by weight of other copolymerizable monomers and
 - D) 0 - 10% by weight of one or more compounds with at least two olefinically unsaturated groups in the molecule as crosslinkers.
 11. (amended) A composition as defined in claim 10, wherrein the copolymers are obtained by free-radical polymerization of
 - A) 75 - 99.45% by weight of carboxylic acid component A,
 - B) 0.5 - 24.95% by weight of the long-chain compounds with isolated C-C multiple bonds B,
 - C) 0 - 24.45% by weight of other copolymerizable monomers and
 - D) 0.05 - 5% by weight of crosslinker component D.
 12. (amended) A composition as defined in claim 10, wherein the copolymers have been prepared using acrylic acid, methacrylic acid or maleic anhydride as component A.
 13. (twice amended) A composition as defined in claim 10, wherein the copolymers have been prepared using as component B one or more

long-chain compounds with isolated double bonds selected from the group consisting of

- (1) mono- to tetraunsaturated C₁₄-C₂₄-monocarboxylic acids, as well as their alkali metal and alkaline earth metal salts, C₁-C₄-alkyl esters, glycerol esters or polyglycerol esters,
- (2) mono- to tetraunsaturated aliphatic primary C₁₄-C₂₄-amines, and
- (3) mono- to tetraunsaturated primary C₁₄-C₂₄-alcohols as well as their esters with saturated C₁-C₄-monocarboxylic acids.

14. (amended) A composition as defined in claim 10, wherein the copolymers are used which have been prepared using as component D allyl ethers of pentaerythriol, trimethylolpropane or sucrose with at least two allyl ether units in the molecule as well as allylether methacrylate, oleyl (meth)acrylate or methylenebisacrylamide.

15. (trice amended) A copolymer obtained by free-radical polymerization of

- A) 50 - 99.9% by weight of an olefinically unsaturated C₃-C₅-monocarboxylic acid, of an olefinically unsaturated C₄-C₈-dicarboxylic acid or of its anhydride or a mixture of such carboxylic acids or anhydrides with
- B) 0.1 - 50% by weight of one or more long-chain compounds with isolated C-C multiple bonds selected from the group consisting of
 - (1) mono- to tetraunsaturated C₁₄-C₃₀-monocarboxylic acids as well as their alkali metal and alkaline earth metal salts, C₁-C₄-alkyl esters, glycerol esters or polyglycerol esters,
 - (2) mono- or polyunsaturated aliphatic C₈-C₃₀-amines, and
 - (3) mono- or polyunsaturated C₈-C₃₀-alcohols as well as their esters with saturated C₁-C₄-monocarboxylic acids,
- C) 0 - 49.9% by weight of other copolymerizable monomers and
- D) 0 - 10% by weight of one or more compounds with at least two olefinically unsaturated groups in the molecule as crosslinkers.

17. (amended) A cosmetic or pharmaceutical composition as defined in claim 10 and containing as a thickener or dispersant an effective amount of a copolymer obtained by free radical polymerization of

- A) 50 - 99.9% by weight of an olefinically unsaturated C₃-C₅-monocarboxylic acid;
- B) 0.1 - 50% by weight of one or more long-chain compounds with isolated C-C multiple bonds from the group comprising
 - (1) mono- or polyunsaturated C₈-C₃₀-monocarboxylic acids,
 - (2) mono- or polyunsaturated aliphatic C₈-C₃₀-amines, and
 - (3) mono- or polyunsaturated C₈-C₃₀-alcohols,
- C) 0 - 49.9% by weight of other copolymerizable monomers, and
- D) 0 - 10% by weight of one or more compounds with at least two olefinically unsaturated groups in the molecule as crosslinkers.